UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,287	10/14/2004	Ronald Willem Arie Oorschot	294-200 PCT/US	1861

23869 7590 03/27/2007
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

EXAMINER	
HOLMAN, JOHN D	
ART UNIT	**PAPER NUMBER**
3643	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/511,287	OORSCHOT, RONALD WILLEM ARIE	
	Examiner	Art Unit	
	John D. Holman	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 2/8/2007.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-3,5,6,9-15 and 17-24 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-3,5,6,9-11,13-15 and 17-23 is/are rejected.

7)☒ Claim(s) 12 and 24 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 6, 9-11, 13, 14, and 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young (US 3862502) in view of Haslett (US 3297980).

Regarding claim 1, Young discloses a method for collecting animals living on or in a water bottom wherein a collecting device (13, 16) is moved over the bottom (11) having at least one tine (25) provided with fluid outlet means, and a operating means (15) provided on the collecting device (13, 16) for moving the at least one tine (25). See figures 1-4. The claim differs from Young's method in calling for the device to comprise a detection means to activated the movement of the at least one tine. Haslett discloses detection means (14) to detect the presence of animals in or on the water bottom. See figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Young's method in view of the teachings of Haslett to include detection means for the purpose of detecting the presence of animals in front of the device. The combination of Young and Haslett discloses a detection means and a operating means, wherein the tines can be lowered into the water bottom by the

operating means (15) when the user in the vessel receives a signal from the detection means and can retract the tines from the water bottom when a signal is not receive.

Regarding claim 2, Young as modified in claim 1 discloses a method wherein a plurality of tines (25, 25a) are provided and the collecting device (13, 16) is moved in a first direction over the bottom (11) and the fluid is forced into the bottom (11) in approximately the same direction from an individual tine (25a) based on the detecting means (Haslett 14), and wherein each individual tine (25, 25a) is independently activatable. See figure 4. Merely describing the tines as independently activatable does not place any limitation on the device since it does not describe any movement.

Regarding claim 3, Young as modified in claim 1 a method wherein the fluid is introduced into the bottom less than 25 cm below the bottom when the tines are in a retracted position.

Regarding claim 6, Young as modified in claim 1 discloses a method wherein the animals are detected with the aid of sound. See Haslett column 3, lines 3-5.

Regarding claim 9, Young discloses a device for collecting animals living on or in a water bottom comprising supporting means (13, 16) and means (25) for moving the animals from or off the bottom (11) is moved over the bottom (11). See figures 1-4. The claim differs from Young's device in calling for the device to comprise a detection means to drive the movement of the means for moving the animals. Haslett discloses detection means (14) to detect the presence of animals in or on the water bottom. See figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Young's device in view of the teachings of Haslett to

include detection means for the purpose of detecting the presence of animals in front of the device. The combination of Young and Haslett discloses a detection means and a driving means, wherein the tines can be lowered or retracted into the water bottom by the driving means (15) when the user in the vessel receives a signal from the detection means.

Regarding claim 10, Young as modified in claim 9 discloses a device wherein the means for moving the animals (25) comprise at least one tine extending below a plane defined by the undersides of the supporting means (20) into the bottom (11), water supply means introducing water into the bottom (11) at a gentle angle, and wherein the tine (25a) is retractable above a plane defined by the underside of the supporting means (20). See figure 4. When the device is in use, the tines are extended below a plane defined by the underside of the support means (20), which in fig 4 is the surface of the ground. When the device is not in use, the tines are retracted above that plane, which is still established as the surface of the ground.

Regarding claim 11, Young as modified in claim 10 discloses a device wherein a row of tine (25) is provided. See figure 3.

Regarding claim 13, Young as modified in claim 10 discloses a device wherein the at least one tine (25) is provided with a free end extending approximately parallel to the plane (20). See figure 4.

Regarding claim 17, Young discloses a method for collecting animals from the bottom of a body of water comprising the steps of moving a collecting device (16) along the bottom surface (11) of a body of water, applying a fluid under pressure below the

bottom surface (11) of the body of water, and collecting animals (40) dislodged by the applied fluid under pressure. See figures 1-4. The claim differs from Young's method in calling for the device to comprise a detection means. Haslett discloses detection means (14) to detect the presence of animals in or on the water bottom. See figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Young's method in view of the teachings of Haslett to include detection means for the purpose of detecting the presence of animals in front of the device.

Regarding claim 18, Young as modified in claim 17 discloses a method wherein the collection device includes an underside moveable along the bottom surface of the body of water and the step of applying a fluid under pressure includes the step of extending a tine (25) provided on the collecting device below the surface, wherein the tine (25) includes a nozzle for applying the fluid under pressure. See figure 4.

Regarding claim 19, the combination of Young and Haslett discloses a detection means and a retracting means, wherein the tines can be lowered into the water bottom by the retracting means (15) when the user in the vessel receives a signal from the detection means and can retract the tines from the water bottom when a signal is not receive. The tines being retracted above the plane being defined by the collection device underside (20).

Regarding claim 20, Young discloses a device for collecting animals from the bottom of a body of water comprising a support frame (16) having at least one runner (20) movable along a bottom surface (11) of a body of water, an animal mover (25)

provided on the support frame (16) activatable to move the animals from the bottom (11) of the body of water, and an animals collector (40). See figures 1-4. The claim differs from Young's device in calling for the device to comprise an animal detector to activated the movement of animal mover. Haslett discloses an animal detector (14) to detect the presence of animals in or on the water bottom. See figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Young's device in view of the teachings of Haslett to include an animal detector for the purpose of detecting the presence of animals in front of the device. The combination of Young and Haslett discloses an animal detector and a means to move the animal mover, wherein the animal mover can be lowered into the water bottom by the means to move the animal mover (15) and can retract the animal mover from the water bottom.

Regarding claim 21, Young as modified in claim 20 discloses a device wherein the animal mover (25) comprises at least one tine moveable between a first position which the tine (25) is extended below a plane defined by an underside of the runner (20) and a second position in which the tine (25) is retracted above the plane defined by the underside of the runner (20). The plane is established while the device is in use. Once the tines are removed from the bottom, the plane is still established as being where the underside of the runner was before the retraction began. The tines (25) are moved by the user aboard the vessel (13).

Regarding claim 22, Young as modified in claim 1, discloses a method for collecting animals wherein at least one tine (25) is extendable below a plane defined by

an underside of the collecting device (20) for moving the tine (25) into the bottom, and is retractable above a plane defined by the underside of the collecting device. See figure 4. The plane is established while the device is in use. Once the tines are removed from the bottom, the plane is still established as being where the underside of the runner was before the retraction began.

Regarding claim 23, Young as modified in claim 17 discloses a method for collecting animals wherein the step of applying a fluid under pressure comprises the step of selectively applying a fluid under pressure from one of a plurality of tines (25) extending below the bottom surface (11) of the body of water upon detection of the presence of an animal in front of the tine (25), wherein each tine is independently activatable. Merely describing the tines as independently activatable does not place any limitation on the device since it does not describe any movement.

Claims 5, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young (US 3862502) and Haslett (US 3297980) as applied to claims 1 and 9 above, and further in view of Cain (US 4563830). Young and Haslett are discussed above.

Claim 5 differs from Young's method as modified in claim 5 in calling for electric means that are activated on the basis of signals from the detection means. Cain discloses a method that has electric means in the form of electrodes (4) that are located in front of tines (46). See figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to further modify Young's method in

view of the teachings of Cain to include electric means arranged near the tines for the purpose of better flushing out the animals of the bottom that may be missed by the moving tines.

Claim 14 differs from Young's method as modified in claim 9 in calling for electric means in combination with the vibration means. Cain discloses a method that has electric means in the form of electrodes (4) that are located in front of tines (46). See figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to further modify Young's method in view of the teachings of Cain to include electric means arranged near the tines for the purpose of better flushing out the animals of the bottom that may be missed by the moving tines.

Regarding claim 15, Young as modified in claim 14 discloses a method wherein a series of electric means (Cain 4) and a series of detecting means (Haslett 14) are provided.

Allowable Subject Matter

Claims 12 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 1/3/2007 have been fully considered but they are not persuasive.

Regarding the argument that there is no indication for selectively raising and lowering the entire sled, Young combined with Haslett discloses a detecting means in which a signal is sent to a user aboard the vessel, which is being considered part of the device, and therefore can extend the tines into the bottom surface of the water and retract the tines from the bottom surface depending on the signal received from the detecting means by the operating means (tow line).

Regarding the argument that Young does not disclose forcing fluid through an individual tine, independent of the other tines, the language of the claim states that fluid is forced through an individual tine, but does not preclude fluid from being forced through other tines at the same time.

Regarding the argument that the prior art of record does not disclose the tines being extendable and retractable with respect to the underside of the collection device, the plane is established while the device is in use, once the tines are removed from the bottom, the plane is still established as being where the underside of the collection device was before the retraction began.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Holman whose telephone number is 571 272-2754. The examiner can normally be reached on Monday through Friday 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JDH

DARREN W. ARK
PRIMARY EXAMINER